

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

KEVIN DETIENNE,)	
)	DOCKET NO.: PT-1997-134
Appellant,)	
)	
-vs-)	
)	
THE DEPARTMENT OF)	<u>OPINION and ORDER</u>
REVENUE OF THE STATE)	
OF MONTANA,)	
)	
Respondent.)	

The above-entitled appeal came on regularly for hearing on the 6th day of April, 1999, in the City of Helena, Montana. Neither the taxpayer, nor an agent for the taxpayer, appeared at the scheduled hearing. The Department of Revenue (DOR) represented by Appraisers Don Blatt, Nancy Hallett and Florian Tininenko, presented testimony in support of the DOR appraisal.

The subject property involved in this appeal is:

The improvements described as a 26' by 56' 1995 Nassau mobile home and a one-acre parcel upon which the improvements are located, in Section 26, Township 11 North, Range 40 West, Lot 83, County of Lewis and Clark, State of Montana. (Assessor number 94536 for the mobile home and assessor number 9316 for the land).

For the 1997 tax year, the DOR appraised the subject

property at a value of \$11,989 for the land and \$48,780 for the improvements. The taxpayer appealed to the Lewis and Clark County Tax Appeal Board requesting a reduction in value to \$7,264 for the land and \$33,300 for the improvements, stating "Blue book value is considerably less than current appraised state value. Bank will not consider state value for loan consideration." The county tax appeal board reduced the land value to \$10,750, stating "Value determined by evidence presented." No change was made to the improvement value. The taxpayer then appealed that decision to this Board, citing the same reasons for appeal as before the county tax appeal board.

This Board is faced with weighing the evidence and testimony in the record to determine the fair market value of the subject property. The value of a one-acre building site is in contention as is the value of a 1,456 square foot mobile home.

During the course of reviewing the property in response to the taxpayer's request, the DOR discovered that the one-acre home site, part of a 76 acre parcel owned by the taxpayer, was erroneously designated as non-qualifying agricultural land. One acre of real property beneath improvements on parcels of land 20 acres or more but less than 160 acres under one ownership that are not eligible for valuation, assessment, and taxation as

agricultural land (Section 15-6-133 (1) (c), MCA) are to be valued at market value (Section 15-6-134 (1) (e), MCA.) It appears that the county tax appeal board decision to place the land value at \$10,750 is an adoption of the DOR amended land value placing the one-acre homesite into the proper designation at market value. The record contains credible sales evidence presented by the DOR in support of its land value. Testimony at the hearing before the county tax appeal board indicated that the taxpayer paid \$85,000 in 1994 for the total parcel of 76 acres. The DOR total land value is \$33,740.

Regarding the subject mobile home, testimony by the taxpayer was that he paid \$48,000 for the home "in '94 or '95." The DOR has valued the improvements at \$48,780. The DOR agent testified at the hearing before this Board that the mobile home was assigned a quality grade of "good" from the DOR's Montana Appraisal Manual. Mr. DeTienne apparently consulted an NADA (National Automobile Dealers' Association) manual dated August of 1997 and determined a market value of \$33,300 for the subject mobile home. The DOR agent argued that the data contained in the August 1997 manual contained market data occurring in time beyond the January 1, 1996 base appraisal date for the current appraisal cycle. The DOR agent pointed to a September 1995 NADA guide which showed a

market value of \$49,337 for the subject mobile home, which is supportive of the DOR value and more within the time guidelines pertinent to the current appraisal cycle. The DOR has made an allowance of two percent for physical depreciation.

It is true, as a general rule, that the appraisal of the Department of Revenue is presumed to be correct and that the taxpayer must overcome this presumption. The Department of Revenue should, however, bear a certain burden of providing documented evidence to support its assessed values. (Western Airlines, Inc., v. Catherine Michunovich et al., 149 Mont. 347, 428 P.2d 3,(1967)). This Board finds that the evidence presented by the Department of Revenue did support the values assessed to the land and structure.

For the foregoing reason, the Board concludes that the appeal shall be denied and the decision of the Lewis and Clark County Tax Appeal Board is affirmed.

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ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Lewis and Clark County by the Assessor of said County at the value of \$10,750 for the land and \$48,780 for the improvements.

DATED this 26th of April, 1999.

BY ORDER OF THE
STATE TAX APPEAL BOARD

GREGORY A. THORNQUIST, Chairman

(S E A L)

JAN BROWN, Member

JEREANN NELSON, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 26th day of April, 1999, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

Kevin DeTienne
22 North Last Chance Gulch
Helena, Montana 59601

Office of Legal Affairs
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Mitchell Building
Helena, Montana 59620

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Lewis and Clark County
City-County Building
316 North Park Avenue
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Gene Huntington, chairperson
Lewis and Clark County Tax Appeal Board
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DONNA EUBANK
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